

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

October 1, 2021

The Honorable Nancy Pelosi
Speaker
U.S House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi and Leader McCarthy:

In a matter of weeks, President Biden's Administration and Congressional Democrats have taken steps to move toward a federal direct lending model that aims to support small businesses. As Republican Members on the Committee on Small Business, who have oversight jurisdiction of the Small Business Administration's (SBA) government guaranteed lending programs, we urge you to exercise extreme caution with any proposals that rely solely on the federal government to underwrite and disburse small business assistance. From an efficiency and fraud perspective, direct lending will harm the very businesses the programs are meant to help.

On August 4, 2021 the SBA introduced the PPP (Paycheck Protection Program) Direct Forgiveness Portal that provides an option for small businesses to work directly with the agency, rather than with their lender during the forgiveness process.¹ Shortly after launching this portal, the SBA sent financial institutions participating in PPP a notice stating that lenders would be subjected to audits if they chose not to participate in the direct forgiveness platform. The SBA flagrantly ignored a number of legitimate reasons why lenders might prefer to work with their customers through the conclusion of PPP Forgiveness, rather than pushing them off to the SBA during this critical phase of the program. While the SBA clarified their questionable audit language, they continued to encourage lenders to abandon their small business customers.

A month and half later, Democratic Members on the House Committee on Small Business pushed through, using the Budget Reconciliation Process, a new direct lending option

¹ Press Release, SBA, *SBA Announces Opening of Paycheck Protection Program Direct Forgiveness Portal* (July 28, 2021), available at <https://www.sba.gov/article/2021/jul/28/sba-announces-opening-paycheck-protection-program-direct-forgiveness-portal>.

under the SBA's 7(a) Loan Program.² Not only did Democrats set up this tool with haphazard legislative language, but they also funded it with \$4.5 billion in taxpayer dollars. This new lending option would target low dollars loans of \$150,000 or less.

These two policies shifts represent wholesale changes that will have lasting impacts on small business access to capital and American taxpayer dollars. The SBA's most successful and efficient lending programs are assisted by the participation of private sector lenders. Currently, within these programs, the federal government does not directly lend to small businesses; rather, the SBA guarantees the repayment of loans made by lenders. Lenders prudently underwrite the loans and provide financial assistance and counseling throughout the entirety of the process. This proven public private partnership delivers capital resources to small businesses in a timely and responsible manner by harnessing the efficiencies of market competition, which cannot be equaled or achieved by the federal government. Trends toward a one lender federal government model should not proceed.

As a reminder, at its core, the Paycheck Protection Program (PPP), which was created in a bipartisan manner as a response the COVID-19 pandemic and its accompanying state and local shutdown measures, was driven largely by private sector lenders. Members of Congress and former President Trump heeded the calls of Main Street America – with forced closures cutting off all revenue, financial assistance was immediately needed to pay employees. Knowing time was of the essence, PPP was established to utilize the efficiencies of the private sector to deliver dollars quickly. While often-changing guidance caused confusion within the program, private sector financial institutions successfully disbursed hundreds of billions in PPP dollars when small businesses needed it the most. In contrast, the SBA's Economic Injury Disaster Loan (EIDL), the federal government's direct to small business COVID program, on average delivered funds to small businesses in 49 days during the first few months of the program's operation.³

Although speed was paramount, private lenders also inherently supplied essential fraud protection measures to ensure American taxpayer dollars were going to legitimate businesses. Importantly, prudent underwriting is second nature to lenders. They are in the business of ensuring dollars are secured. Their participation buttresses government programs.

Unfortunately, the American taxpayer has already assumed the brunt of ill-suited direct lending approaches by the federal government. Not only has the SBA's EIDL program been plagued with delays and underwhelming communication efforts,⁴ but it has also been susceptible to fraudulent activity due to a lack of oversight controls. According to one of the SBA Inspector General's earliest COVID reports, "preliminary review and investigative findings have identified

² House Small Business Committee Print providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022 § 100502 (117th Cong.) *available at* https://smallbusiness.house.gov/uploadedfiles/09-09-21_ans.pdf.

³ SBA, OFFICE OF INSPECTOR GENERAL, 11 SERIOUS CONCERNS OF POTENTIAL FRAUD IN ECONOMIC INJURY DISASTER LOAN PROGRAM PERTAINING TO THE RESPONSE TO COVID-19 (July 28, 2020), *available at* https://www.sba.gov/sites/default/files/2020-07/SBA_OIG_Report_20-16_508.1.pdf.

⁴ GAO, ECONOMIC INJURY DISASTER LOAN PROGRAM, ADDITIONAL ACTIONS NEEDED TO IMPROVE COMMUNICATION WITH APPLICANTS AND ADDRESS FRAUD RISKS (July 2021), *available at* <https://www.gao.gov/assets/gao-21-589.pdf>.

concerns with internal controls and potentially rampant fraud in the program.”⁵ Not surprisingly, the report also mentions the role of private sector lenders and how they have assisted with fraud protections within a program they are not party to. The report states that “OIG has been inundated with contacts to investigative field offices from financial institutions across the nation....”⁶ In a follow-up report published on October 28, 2020, the SBA’s Inspector General found that nearly \$80 billion in EIDL dollars could be potentially fraudulent.⁷ While any illegal activity within a government program is unacceptable, a fraud rate of approximately 30 percent⁸ is a warning sign for proponents of federal direct lending.

Due to the disservice that direct lending would subject small businesses to, and the needless exposure of American taxpayer dollars, we have legislative ideas to ensure the SBA’s programs do not proceed in this manner. While we have raised alarm bells on direct lending for months, we look forward to discussing these ideas in Congressional hearings and within the halls of Capitol Hill with our colleagues. Federal government programs must provide aid and resources in a responsible, efficient, and prudent manner. Anything less is unacceptable.

Sincerely,



Blaine Luetkemeyer
Ranking Member
Committee on Small Business



Roger Williams
Vice Ranking Member
Committee on Small Business



Jim Hagedorn
Member of Congress



Pete Stauber
Member of Congress

⁵ *Id.* at 3.

⁶ *Id.* at 1.

⁷ SBA, OFFICE OF INSPECTOR GENERAL, INSPECTION OF SMALL BUSINESS ADMINISTRATION'S INITIAL DISASTER ASSISTANCE RESPONSE TO THE CORONAVIRUS PANDEMIC (Oct. 28, 2020), *available at* <https://www.sba.gov/sites/default/files/2020-11/SBA%20OIG%20Report%2021-02.508.1.pdf>.

⁸ Calculation based off of total EIDL dollars year to date including original \$20 billion for EIDL Advances during the summer of 2020 divided by \$78.1 billion. SBA. Disaster Assistance Update, Nationwide COVID EIDL, Targeted EIDL Advance, Supplemental Targeted Advances (Sept. 16, 2021).



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